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Implementing balanced and restorative justice

Victim • Offender • Community



A guide for juvenile probation

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TABLE OF CONTENTS

FOREWORD	4
ABOUT THIS GUIDE	5
BALANCED AND RESTORATIVE JUSTICE	6
<i>Principles of restorative justice</i>	6
<i>Benefits of balanced and restorative justice</i>	8
<i>Why should probation officers use BARJ?</i>	8
THE COMMUNITY JUSTICE MOVEMENT	9
<i>Community probation</i>	9
<i>Community probation and BARJ</i>	9
PUTTING BALANCED AND RESTORATIVE JUSTICE INTO PRACTICE IN JUVENILE PROBATION	11
<i>The role of probation and BARJ</i>	11
<i>Probation and victims</i>	12
<i>Evidence-based practices and BARJ</i>	12
BALANCED AND RESTORATIVE JUSTICE-BASED PRACTICES FOR JUVENILE PROBATION	14
<i>Current justice practices</i>	14
<i>Community service</i>	14
<i>Restitution</i>	14
<i>Victim impact panels</i>	14
<i>Victim impact statements</i>	15
<i>Apology letters</i>	15
<i>Balanced and restorative justice-based programs</i>	15
<i>Circles</i>	15
<i>Community reparative boards</i>	16
<i>Family group conferences</i>	17
<i>Victim offender conferencing programs</i>	17
<i>Other programs</i>	17
<i>Youth court programs</i>	17
<i>Community mediation panels</i>	18
<i>Implementation</i>	18
<i>Evaluation</i>	18
CONCLUSION	20
NOTES	21
APPENDIX	23

Foreword

Created in 1983, the Illinois Criminal Justice Information Authority is a state agency dedicated to improving the administration of criminal justice. The Authority works to enhance the information tools and management resources of state and local agencies, and it serves as a statewide forum for criminal justice coordination, planning and problem solving. It is also responsible for research, information systems development, and administration of federal funds. The Authority's specific powers and duties are spelled out in the Illinois Criminal Justice Information Act [20 ILCS 3930].

The Authority created this series of BARJ implementation guides to provide profession-specific information on how the BARJ philosophy could be used across the juvenile justice system.

ICJIA supports the use of balanced and restorative justice (BARJ) in Illinois' juvenile justice system in accordance with the state's policy on BARJ as outlined in the Juvenile Court Act. In recent years, the agency has made BARJ a research and funding priority. In 2003, the Authority sponsored a statewide BARJ summit attended by juvenile justice professionals across Illinois. The goal of the summit was to develop a statewide strategy to systematically implement BARJ-based programs and principles for juveniles throughout the state.

Summit participants identified several needs to aid them in the implementation of BARJ principles. One need was continuing education on programmatic applications of the BARJ philosophy. This led to a conference in March 2005 entitled, "Juvenile justice in Illinois: Implementing restorative justice in your community."

The Authority created this series of BARJ implementation guides to provide profession-specific information on how the BARJ philosophy could be used across the juvenile justice system. For more information about BARJ, visit the Authority's website at www.icjia.state.il.us.

About this guide

This publication is one in a series of guides designed to assist in the statewide promotion of balanced and restorative justice. BARJ is a philosophy of justice that can guide the work of individuals who deal with juvenile offenders, their victims, and the communities in which they live.

The goals of this guide are to:

- Promote compliance among those working in juvenile justice in Illinois with the state's policy on BARJ outlined in the Juvenile Court Act.¹
- Improve the response to juvenile conflict and crime by increasing the knowledge and understanding of BARJ by juvenile justice professionals, agencies, communities and their members.
- Offer strategies, programs, and practices that incorporate the values and principles of BARJ.

Implementing balanced and restorative justice: A guide for probation professionals is specifically designed to provide practical BARJ strategies that can be utilized by probation professionals on a daily basis. A variety of juvenile justice practitioners provided guidance during the development of this guide to make it applicable to probation officers.

Balanced and restorative justice

Restorative justice² is a philosophy based on a set of principles that serve to guide the response to conflict or harm. Restorative justice principles can guide responses to conflicts in many settings, not just those caused by a violation of law. The balanced and restorative justice³ model was a concept developed in part by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, in order to make the philosophy of restorative justice applicable to the modern U.S. justice system. BARJ uses restorative justice principles to balance the needs of three parties: those identified as an offender or law violator, the crime victim, and the affected community.

BARJ is not a program, but a philosophy with a coherent set of values and principles to guide the administration of justice.

Principles of restorative justice

The principles of restorative justice⁴ are:

- Crime is injury.
- Crime harms individual victims, communities, and offenders, and creates an obligation to address that harm.
- All parties should have an opportunity to respond to the crime, including victims, the community, and the offender.
- The victim's perspective is central in deciding how the harm should be repaired.
- Accountability for the offender means accepting responsibility and acting to repair the harm done.
- The community is responsible for the well-being of its members, including both victim and offender.
- All human beings have dignity and worth.
- Restoration, repairing the harm, and rebuilding community relationships is the primary goal of restorative justice.
- Results are measured by how much repair was done rather than how much punishment was handed out.
- A high degree of crime control cannot be achieved without active community involvement.
- The justice process is respectful of age, abilities, sexual orientation, family status, and diverse cultures and backgrounds, whether racial, ethnic, geographic, religious, economic, or other. All are given equal protection and due process.

BARJ is not a program, but a philosophy with a coherent set of values and principles to guide the administration of justice. The programs described in this guide are based on the philosophy of BARJ and will be referred to as “BARJ programs.” Although BARJ can also be applied to adult offenders, it has gained a wider acceptance in Illinois for use with youth in the juvenile justice system.

BARJ recognizes three parties with an important role and stake in the justice process: victims, offenders, and communities.

BARJ's three main goals include:

- **Accountability.** BARJ strategies provide opportunities for offenders to be accountable to those they have harmed and enable them to repair the harm they caused to the extent possible.
- **Community safety.** BARJ recognizes the need to keep the community safe. Community safety can be accomplished through BARJ strategies by building relationships and empowering the community to take responsibility for the well-being of its members.
- **Competency development.** BARJ seeks to increase the pro-social skills of offenders. Addressing the factors that lead youth to engage in delinquent behavior and building on the strengths evident in each youth increases their competencies.

BARJ recognizes three parties with an important role and stake in the justice process: **victims, offenders, and communities.**

Crime is viewed as harm to individuals and communities, rather than merely a violation of state laws. As a result, the administration of justice is guided not only by the interests of the state, but also the interests of victims and community members. A crime may produce a clear victim, an individual who was directly harmed, or victims who were harmed indirectly. For example, drug crimes may appear to have no clear victim, but families and communities are very much affected when one of their members abuses drugs. The involvement of both direct and indirect victims of crime is necessary in the justice process for offenders to gain a better understanding of the harm they have caused and learn empathy for others.

The BARJ philosophy differs from the dominant justice philosophies of retribution and rehabilitation. Retribution reacts to an offense through punishment, while rehabilitation seeks to improve the individual offender through treatment. In both philosophies, offenders remain relatively passive and are not expected to accept responsibility for their crimes. In fact, retributive and rehabilitative justice systems may encourage offenders to deny responsibility, due in part to the adversarial processes involved in the determination of guilt and appropriate punishment.

Many criminal justice professionals have embraced the BARJ philosophy due to the limitations evident in the absence of accepting responsibility and the exclusion of victims and community members from the justice process. Many BARJ principles and practices enhance the juvenile justice system. Many BARJ-based practices do not, or cannot, apply in all cases. But when the conditions are right for BARJ implementation, better outcomes can be seen for victims, offender, communities, and the juvenile justice system. There is a possible restorative response to any harm or crime, even if the offender is incarcerated.

BARJ has been implemented all over the world, but most extensively in Western Europe, New Zealand, and Canada. Nationally, BARJ has been endorsed by the U.S. Department of Justice through the Office of Juvenile Justice and Delinquency Prevention, which has funded the National Balanced and Restorative Justice Project since 1993. Housed at Florida Atlantic University, the BARJ Project provides training and technical assistance and develops a variety of materials to inform policy and practice related to balanced approach and restorative justice. (*See Appendix for contact information.*)

The Council for Juvenile Correctional Administrators also strongly recommends the adoption of a balanced and restorative approach to justice for youths. They believe BARJ helps strengthen

As of March 2005, at least 16 states included balanced and restorative justice in the purpose clauses of their juvenile courts.

Research has shown that BARJ reduces recidivism rates.

community bonds while sending a clear message about personal responsibility and accountability to victims and communities.⁵

In addition, the American Probation and Parole Association has stated, “a comprehensive community justice strategy includes restorative justice practices and processes.”⁶

As of March 2005, at least 16 states included balanced and restorative justice in the purpose clauses of their juvenile courts.⁷ In 1998, Illinois’ Juvenile Court Act was revised to include a purpose and policy statement adopting BARJ for all juvenile delinquency cases.⁸ Many jurisdictions in Illinois are operating BARJ-based programs and practices and numerous state and local initiatives promote BARJ.

Benefits of balanced and restorative justice

Research has shown that BARJ:

- Offers a more cost-effective means to handle crime over the traditional court system.⁹
- Reduces recidivism rates.¹⁰
- Increases satisfaction of victims¹¹ and offenders with the justice system.¹²
- Improves competencies of offenders.¹³
- Increases completion of restitution agreements.¹⁴
- Lessens the fear felt by victims of crime.¹⁵
- Increases community involvement.
- Provides individualized attention and services for offenders and their victims.

Why should probation officers use BARJ?

BARJ enhances the work of probation officers in a variety of ways. BARJ:

- Increases collection of restitution.
- Increases offender skills while meeting the needs of victim(s) and the community with productive community service.
- Reduces recidivism of probationers.
- Increases victim satisfaction by being more responsive to victim needs.
- Decreases community fear of crime, and increases satisfaction with probation and the juvenile justice system in general.
- Allows community members to assist with probationer management.
- Allows more effective management of probationers by providing opportunities to repair the harm caused and increase competencies.

The community justice movement

The community justice movement, which includes policing, courts, prosecution, and probation models, has the goal of community involvement in common with BARJ. Community justice aims to increase collaboration with the community to improve the effectiveness of police, prosecutors, defense attorneys, and the courts. BARJ goes a step beyond community involvement by involving all parties who have an interest in and are affected by crime. The American Probation and Parole Association asserts that not only is restorative justice related to community justice, it is “crucial to the success of a community justice strategy.”¹⁶

Community probation

The success of community policing models encourages probation officers to work closely with the community. Probation departments can provide meaningful community service work through probationers, while giving the public the opportunity to learn about community corrections. Traditional justice processes encourage community residents to leave the issue of justice to the professionals. But crime affects all members of society. Involvement of local citizens can be critical to the reduction of crime. In *Crime Shame and Reintegration*, John Braithwaite writes, “Low crime societies are societies where people do not mind their own business, where tolerance of deviance has definite limits, where communities prefer to handle their own crime problems rather than hand them over to professionals.”¹⁷ Community probation engages the community in problem-solving in order to better administer justice.

In Deschutes County, Ore., probation professionals have embraced the concept of community justice. The county has even discontinued use of the term *probation department*, now calling it the *community justice department*. The department works closely with citizen groups, schools, faith-based organizations, and businesses in the community. Department staffers are not optimistic about using punishment as a deterrent.

“We are not convinced the traditional corrections models are very effective in reducing recidivism,” said one staff member. “We do know that we will never know as much about a community as the community residents themselves do. Our relationship to the community, therefore, is based on the reality that citizens must step forward and become centrally involved, working daily to build community, prevent crime, assist victims, and help offenders make reparation. They must become stewards of community well-being rather than passive recipients in a government-delivered scheme.”¹⁸

The department has had success in building youth competencies, collecting restitution, and coordinating numerous hours of work service that have benefited the community, including service to assist Habitat for Humanity.¹⁹

Community probation and BARJ

Community probation holds promise as a vehicle for improving the practices and performance of the juvenile justice system, especially when guided by the BARJ philosophy. While aspects of community probation are consistent with the principles of BARJ, many probation departments continue to rely on punitive measures as the formal response of the justice system.

Here, Andrew Klein, chief probation officer in Quincy, Mass., explains the value of combining the BARJ philosophy with community probation:

BARJ seeks to involve probation officers and the community in addition to victims and offenders in the administration of justice.

“A balanced probation department, one that sheds its preoccupation with offenders to the exclusion of the community and the victim, will find that it serves more than offenders. It serves justice itself. At that point, probation can offer a real service to the community, victims, and offenders alike. Rather than simply offer a palliative to induce pleas, a probationary sentence can offer a superior alternative to other criminal sanctions for many offenders and a solution to the problem of crime and fear of crime in our communities.”²⁰

BARJ seeks to involve probation officers and the community in addition to victims and offenders in the administration of justice. Community members and victims can be involved in the justice process through their participation in BARJ-based programs and on advisory boards.

Putting balanced and restorative justice into practice in juvenile probation

Youth can become involved with a BARJ program at various points in the juvenile justice process. Law enforcement may divert cases to BARJ programming as a part of a formal or informal station adjustment. Prosecutors may choose to divert cases to a BARJ program in lieu of a formal charge or negotiate with defense attorneys for guilty plea agreements requiring participation in the program. Judges can order an offender who has acknowledged responsibility for an offense to participate in a BARJ program. Probation officers may develop conditions of probation, in some cases along with citizens and victims, which follow the principles of BARJ. A detention or corrections center may have offenders participate in BARJ programs, which can aid in an offenders' successful re-entry into the community. In addition, a BARJ program can handle violations of probation or disciplinary actions within a juvenile facility. Finally, offenders may voluntarily agree to participate in a BARJ program or practice separate from any obligations imposed by the court system.

BARJ-based practices also are used outside of the system to handle neighborhood disputes and misconduct in schools.

Figure 1 outlines the roles that justice system professionals can play in meeting the goals of BARJ.

The role of probation and balanced and restorative justice

Illinois juvenile probation officers supervise about 17,190 juvenile offenders annually.²¹ Supervision can incorporate the offender's recognition of harm caused and of his/her responsibility to restore the victim and pay restitution.²² Using a BARJ-based approach, probation officers should examine each

Figure 1: The role of juvenile justice system professionals in the facilitation of balanced and restorative justice	
Accountability	<ol style="list-style-type: none"> 1) Facilitate mediation. 2) Ensure restoration (ways for offenders to pay restitution). 3) Develop creative and restorative community service options. 4) Educate community members on their potential role and engage them in BARJ-based practices.
Competency development	<ol style="list-style-type: none"> 1) Develop ways for young offenders to increase competency. 2) Assess and build on youth and community strengths. 3) Develop community partnerships.
Community safety	<ol style="list-style-type: none"> 1) Develop incentives and consequences to ensure compliance with supervision objectives. 2) Assist school and family efforts to handle and maintain offenders in the community. 3) Develop prevention capacity of local organizations.

Adapted from Bazemore, Gordon and Charles Washington "Charting the Future for the Juvenile Justice System: Reinventing Mission and Management," Spectrum, The Journal of State Government 68 (2) (1995): 51-56.

If guided by the philosophy of BARJ, probation officers can address public safety demands while meeting the needs of the victim and community.

Significant effort should be made not to revictimize or blame the victim.

case individually to determine the best course of action. Accountability for the harm caused should be the priority of offender supervision.²³ BARJ-based programs and practices hold offenders accountable to victims and the community. If guided by the philosophy of BARJ, probation officers can address public safety demands while meeting the needs of the victim and community.²⁴

Probation and victims

Depending on the type of crime, victimization can range from an inconvenience to traumatization. Each victim's response to crime also may vary. Victims may need empowerment, reassurance, vindication, and an understanding of what happened.²⁵ Sometimes these needs are not met by the traditional justice system. BARJ-based processes, in contrast, are better designed to meet the range of crime victims' needs. Research suggests that victims are open to sentences that are restorative and often do not desire the incarceration of their offender. In addition, victims want their offenders to receive treatment. Studies also have shown that BARJ practices offer high victim satisfaction and reduce fear and anxiety.²⁶

Crime can be traumatic. The criminal justice system has often been criticized for being insensitive, unresponsive to victim needs, and even causing further harm. Significant effort should be made not to revictimize or blame the victim. BARJ seeks to treat victims with compassion and sensitivity in an environment that is attentive to each victim's feelings and needs.

Evidence-based practices and BARJ

Evidence-based practices (EBP) are commonly applied in Illinois probation departments. Also referred to as "best practices" or "what works," evidence-based practices for probation are built on eight principles. They include:

- Assessing offender risk and needs.
- Enhancing offender motivation.
- Targeting interventions.
- Addressing cognitive-behavioral functioning.
- Providing positive reinforcement.
- Providing ongoing support.
- Measuring outcomes.
- Providing quality assurance.

The focus of evidence-based practice in probation is on offenders classified as high-risk, a narrower response to crime than that supported by the BARJ philosophy.²⁷ Using BARJ to guide EBP ensures that we do not send the message to offenders, victims, and the community that even minor offenses are not serious.

Michael Dooley, a correctional program specialist at the National Institute of Corrections Academy, asserts, "The whole concept of (crime) classification is quite compatible with restorative justice, but we

must expand our perspective and develop models of classification that incorporate the restorative justice paradigm. Certain crimes create greater harm and require more resources, which can be learned from a classification model.”²⁸

“When correctional jurisdictions begin large scale restorative initiatives, classification processes will help them manage how and what resources and programs can be used to resolve conflict, address victim and community harm, and respond to the risk and treatment needs of offenders,” he said. “At the same time, we need to be sure that we are sensitive to the idea that harm, from the perspective of restorative justice and real persons, cannot be rudely classified into mere categories. Harm experienced by each and every individual is different, and no classification system can ever define the harm experienced by an individual victim.”²⁹

Balanced and restorative justice practices for juvenile probation

The following justice practices may already be used in some jurisdictions, but the degree to which they can be considered BARJ-based may vary. BARJ-based practices adhere to the balanced approach by giving equal attention, whenever possible, to victims, offenders, and communities, and are based on the principles of restorative justice. Several ways exist to make current practices more effective and consistent with the BARJ philosophy.

Offenders should be provided, when appropriate, with meaningful community service options.

Offenders can work to repair the harm they caused, ideally in areas that increase their competencies.

Current justice practices

Community service

Community service has long been an option in response to juvenile offending. It has not always been restorative, however. Offenders should be provided, when appropriate, with meaningful community service options. For communities to experience restoration through community service, the service should be both visible and valuable. Ideally, community service will either be linked to the harm caused by the crime or be chosen by the victim(s). It should also take into account the strengths, interests, and skills of the offender leading to increased competencies. Some activities may include tutoring or mentoring youth; helping at faith institutions, shelters, hospitals, or nursing homes; or attending an extracurricular activity that interests them in their school or community. These activities build skills and engage offenders in a positive way by building lasting relationships, which are more likely to impact them beyond completion of their community service.³⁰

Restitution

A probation agreement should include specific ways that offenders will complete payment of victim restitution. However, many young offenders find it difficult to pay. The burden of payment often falls on the offender's parents. Offenders can work to repair the harm they caused, ideally in areas that increase their competencies. For example, an offender can work for a business owner from whom he or she stole or repair damage that was the result of vandalism or graffiti. These opportunities give young offenders the ability to provide restitution to victims, while learning of the impact of their behavior.

Many communities are finding new ways to assist juvenile offenders in paying restitution. In Operation Payback, an innovative program out of St. Louis, Mo., service organizations raise money that allows juveniles to earn an hourly wage for community service. Once earned, the funds are sent to victims by the service organization in the form of restitution.

Victim impact panels

Mothers Against Drunk Driving held the first victim impact panel in 1982. Victim impact panels allow crime victims of similar offenses to share their experiences and impact of crime with offenders. These

panels allow victims to talk with offenders of similar crimes when it might be too difficult or impossible for them to talk with their own offender. This process also allows offenders to learn the impact of their actions, even though they are not hearing it directly from those they have harmed.

Victim participation is voluntary in any BARJ-based response to juvenile offending. Sometimes, victims are unable to or opt not to meet with their offenders face-to-face. Other times there is no direct victim of a crime.

Victim impact panels allow crime victims of similar offenses to share their experiences and impact of crime with offenders.

Victim impact statements

Victims may provide written statements in lieu of meeting with an offender. The statements share the effect of the crime and may influence the sentence or program outcomes. The first use of impact statements in the U.S. was in 1976 by the probation department in Fresno County, Calif., which used them to guide sentencing in court.

Although victim impact statements are typically used post-conviction and pre-sentencing, other opportunities exist for use of victim impact statements. For example, in certain BARJ programs, a facilitator reads a statement written by the victim that describes the harm caused by the offender.

Apology letters

Offenders who are unable to apologize to victims in person may write letters to their victims or others affected by their offense. The content of these letters should be reviewed before being shared with victims to ensure that they are sincere and will cause no further harm. Victims should always be asked first if they are willing to receive an apology letter from the youth. Even if the victim declines to receive the apology letter, it may still be a worthwhile undertaking, as the exercise will require the offender to consider the harm caused by his or her actions.

Balanced and restorative justice-based programs

Juvenile BARJ-based programs often have several common elements. They:

- Are offered to juvenile offenders who are willing to accept full responsibility.
- Are provided with participant referrals at the discretion of the juvenile justice system.
- Are facilitated by a trained individual, who may be an employee of a juvenile justice agency, an allied non-profit agency, or a volunteer from the community.
- Involve victims and/or community members in the process, but participation is voluntary.
- Keep proceedings confidential.

The following programs may be used by law enforcement as a condition of a station adjustment, by prosecutors who refer youth to BARJ-based programs as an alternative to formal processing in juvenile court, or by probation departments as a condition of probation. These programs have shown promise and have been replicated in different countries and communities. This is not an exhaustive list and program variations may exist that adhere to the principles of BARJ.

Circles

Circles provide an informal opportunity to bring parties in conflict together to resolve an issue. They also may be used in more formal processes, such as sentence determination. A trained facilitator, often called the “circle keeper,” allows all interested parties to share any feelings and information

A probation-run victim offender mediation program in action

Reprinted from “Medley of Mediation Stories,” a collection of articles compiled by the National Association for Community Mediation and Victim Offender Mediation Association listservs. This story was excerpted from the RESPECT Victim Offender Mediation Program, Seventh Circuit Juvenile Court Services, Office of Dispute Resolution Services in Liberty, Mo.

"Ted and Alice agreed to mediate their dispute about restitution in a juvenile matter. Ted had been adjudicated for assault on Alice. The juvenile court found that Ted had burned Alice's face when he flung a grilled steak at her during a confrontation about service at the restaurant where he had a summer job. Alice had testified at the adjudication hearing and wanted to be paid for her time off work. The juvenile officer who made the referral to mediation reported that Alice was very angry and did not feel that the juvenile court has extracted 'a pound of flesh' from Ted. After screening and separate conferences with each person, a joint session proceeded.

"Alice stridently made her opening statement first. She relayed how she had separated from her husband earlier in the year, struggled to make ends meet, and had gone to this restaurant with her two children for their first meal out after she got back on her feet. She was dissatisfied with how her steak was cooked and sent it back twice. The second time she took it to the counter. Ted cursed at her. This upset her greatly since her husband's abusive language was one of the reasons she separated from him. She was disappointed that her children had to hear that language from Ted as well. Alice stated that she works a job that pays by the hour. When she was subpoenaed to testify, she lost four hours of pay. This created a monetary hardship for her household.

"Ted, quiet and cowed, spoke next. He said he had worked 13 hours that day because one of the cooks did not report to work and his supervisor had left earlier in the day. He was scurrying around to fill orders as best he could. Ted admitted that he acted inappropriately when Alice complained about her steak (it cost him his job), but that he also reacted to some colorful language that Alice used. As a result of losing his job, he could not make payments on his car and lost his car. His girlfriend then dropped him because he did not have wheels. He also discussed the terms of his probation from the juvenile court with Alice. A change in the demeanor of Alice and Ted occurred during this sharing of information. Alice relaxed and become more conversational, engaging Ted person to person. Ted grew more assertive, remaining respectful, and able to make eye contact.

"The exchange of consequences each experienced from the event impacted the discussion of restitution. Alice was prepared to forget about the loss of income upon receipt of Ted's apology. Ted seemed content that this would be the extent of his penance. The mediator, however, engaged them in reality testing about the proposal. Both Ted and Alice admitted that the loss of half a day's pay would have consequences for Alice's children. Alice realized that this gesture was expensive for her. Ted recognized that the gesture was too expensive for her children. Ted somewhat grudgingly agreed to pay Alice for her lost wages by a certain date. A few weeks later, Ted sent a check to the mediator to pass on to Alice. The check was for the full amount of Alice's lost wages, plus an additional amount Ted included on his own to go to Alice's children for another meal out with their mother."

related to the conflict or offense. The facilitator may use a “talking piece,” an object that is passed from person to person indicating that it is that person's turn to speak. By offering opportunities for open and safe communication, these programs resolve conflict, strengthen relationships between participants, empower all parties involved, and emphasize respect and understanding.

Community reparative boards

Community reparative boards, also known as neighborhood accountability boards, merchant boards, and youth panels in other parts of the country, allow the community to get involved in the justice process by addressing offenders in a constructive way. These boards bring the offender before a panel of local citizens who hold hearings and determine dispositions. Typically, local courts refer cases to the board. Community volunteers go through intensive training to participate on the board. This

training might include the board process (or issues related to working with youth), but must also include BARJ-based principles to be restorative.

One reparative board initiative, the Community Panels for Youth Project has operated in seven Chicago neighborhoods since 1997. Panels of community volunteers hear juvenile offender cases referred by the Cook County State's Attorney's Office.

Vermont also has a successful reparative probation program that invites dialogue between citizen volunteers, victims, and offenders to negotiate restorative probation agreements.³¹

Family group conferences

Also called community, accountability, and restorative group conferences, family group conferences differ from mediation in that the offender and victim are allowed to bring members of his or her support system, typically family members, to the conference.³² Guided by a trained facilitator, participants are allowed to express their feelings about the young offender and the crime he or she committed. An agreement is developed that describes what the offender must do to repair the harm. Conferencing allows people to work together to resolve problems through cooperation, support, and empowerment. Research has shown high levels of satisfaction with this program, with participants preferring a conference to a court appearance,³³ as well as lower recidivism rates than traditional court processing.³⁴

Conferencing allows people to work together to resolve problems through cooperation, support, and empowerment.

Victim offender conferencing programs

Victim offender conferencing programs are facilitated by a trained mediator and bring together the offender and victim. A discussion takes place and an agreement for the offender to follow is developed. These programs are also referred to as victim offender mediations, victim offender reconciliation programs, or community mediations. Although the term "mediation" may imply that the victim and offender are equals, this is not the case. The offender has the obligation to restore the victim. Community mediation programs can be designed to involve the community and mediate between a victim and an offender. Research has shown that both parties in these programs have consistently been satisfied with the process. Some say the process is fairer than court proceedings.³⁵

Other programs

Youth court programs and community mediation panels have the potential to be restorative when implemented in a manner that is consistent with the BARJ philosophy.

Youth court programs

Youth courts, also called teen courts and peer juries, are programs in which youth volunteers hear cases of juvenile delinquency or school misconduct and make recommendations. In Illinois, most of these programs operate through police departments for station-adjusted youth as a diversion from juvenile court.³⁶ Probation officers may also develop individualized probation agreements through youth courts.

These programs have used the BARJ philosophy to varying degrees. Because of the popularity of youth courts, particularly with police departments in Illinois, a real opportunity exists for these programs to implement BARJ. Youth courts offer victims and community members the opportunity to be present at hearings, provide input into sentencing, and receive verbal or written apologies. Sentences should improve competencies and take into account the interests and talents of offenders. Community service work should be meaningful and related to the offense.

Probation departments may already incorporate one or more of the core principles of BARJ—public safety, accountability, and competency development.

Adjustments to current practices can make existing programs more restorative.

Community mediation panels

In practice, community mediation panels share much with community reparative boards. The goal is to make the juvenile understand the seriousness of his or her actions and the effect that a crime has on the minor, his or her family, the victim, and the community.³⁷ Although the Illinois' Juvenile Court Act explicitly gives responsibility to the state's attorney for the establishment of community mediation panels, the statute states that these panels should be provided to informally hear cases that are referred by a police officer as a station adjustment, a probation officer as a probation adjustment, or referred by the state's attorney as an alternative to prosecution.³⁸

Implementation

Implementing BARJ-based practices doesn't necessarily require the creation of new programs. Adjustments to current practices can make existing programs more restorative. Probation departments may already incorporate one or more of the core principles of BARJ—public safety, accountability, and competency development. Starting a successful BARJ-based practice or program takes work, but evidence shows that BARJ offers much more than the conventional justice system.

Figure 2 provides a description of BARJ-based programs and their goals. The programs are very similar. They all follow the principles of restorative justice. However, one program may be more desirable for certain cases than another. Mediation may be preferred when there is a direct victim who wishes to speak face-to-face with the offender. A circle may be better when there is conflict or a crime that has affected a large group of people. A conference may be preferred if the offense directly involves the family and other people close to the youth. A community board may be desired if the offense has a great impact on the community. Ideally, many program options would exist for young offenders.

There are several steps to developing a program. Points to consider include:

- Establishing a referral procedure, and determining whether referrals will be accepted by other entities, such as schools or parents.
- Identifying the types of offenses and youth that will be accepted.
- Fostering links with community agencies and groups.
- Determining available community service options.
- Recruiting and promoting the BARJ program in the community.
- Training staff and/or volunteers and educating offenders.
- Developing a process for monitoring, follow-up, and evaluation.

Evaluation

Probation officers may gather information through surveys and focus groups designed to help determine victim and community satisfaction with the courts and gain input on what problems exist in their neighbor-

Figure 2: Comparison of BARJ-based programs

	Description	Goals
Circles	<ol style="list-style-type: none"> 1) Involve victim, offender, community participants, and supporters. 2) Led by a trained facilitator. 3) Allow all parties to share information. 4) Lead to an agreement. 	<ol style="list-style-type: none"> 1) Provide awareness of victim and community impact of crime. 2) Reconnect victim and offender. 3) Aid victim in healing process. 4) Develop a collective response to crime and conflict.
Conferences	<ol style="list-style-type: none"> 1) Involve victim, offender, and supporters. 2) Led by a trained facilitator. 3) Allow all parties to share information. 4) Lead to an agreement. 	<ol style="list-style-type: none"> 1) Provide awareness of victim, family, and community impact of crime. 2) Connect all affected by crime. 3) Develop a collective response to crime and conflict.
Community boards	<ol style="list-style-type: none"> 1) Involve victim, offender, community, and volunteers. 2) Led by trained facilitator. 3) Ask questions of victim and offender to illustrate crime's impact. 4) Lead to an agreement. 	<ol style="list-style-type: none"> 1) Provide awareness of victim and community impact of crime. 2) Reconnect victim and offender. 3) Empower citizens and reduce criminal justice reliance. 4) Develop a collective response to crime and conflict.
Mediation	<ol style="list-style-type: none"> 1) Becomes an option when there is a direct victim. 2) Involves victim and offender. 3) Led by trained mediator. 4) Involves mediated discussion in which both parties share information. 5) Leads to an agreement. 	<ol style="list-style-type: none"> 1) Provide awareness of victim impact of crime. 2) Reconnect victim and offender. 3) Aid victim in healing process. 4) Develop a collective response to crime and conflict.

Adapted from Bazemore, Gordon and Mark Umbreit, "Conferences, Circles, Boards, and Mediation: Restorative Justice and Citizen Involvement in the Response to Youth Crime." Final report for Office of Juvenile Justice and Delinquency Prevention, grant number 95-JN-FX-0024. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, 1999: 27-34.

hoods. The same research methods also may be used to measure the impact of BARJ-based practices and programs. BARJ-based practices themselves, including the elements of a formal agreement of a program, such as restitution and community service, should be examined to determine if they are consistent with the BARJ philosophy. In addition, community service completion and restitution compliance rates can be measured. Although many offices do not have the resources to implement these information-gathering techniques, many colleges and universities are interested in providing research support.

Conclusion

The juvenile justice system has been criticized for failing to be responsive to victims and the communities it serves. Many citizens distrust police and are intimidated by what is often a confusing, overburdened court system. BARJ provides a framework for involving all parties affected by crime in the justice process.

BARJ makes community corrections more meaningful to those who work in the field.

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“We have a wonderful opportunity to help change people’s lives in positive ways,” said Francisco Alarcon, deputy secretary of the Florida Department of Juvenile Justice. “As we have embraced restorative principles and practices, we continue to improve public safety. We assist victims of juvenile crime, help communities strengthen families and neighborhoods, and give young people opportunities to reduce deficits and develop the skills necessary to make it in the real world.”³⁹

Restorative justice is a trend both nationally and internationally. Over the past decade, states have implemented BARJ-based practices and programs and have adopted BARJ-based policies for juvenile justice. The U.S. Office of Juvenile Justice and Delinquency Prevention endorses BARJ, and Illinois adopted BARJ as its purpose and policy for responding to juvenile delinquency. This philosophy can guide the work of probation officers and aid in the administration of justice. Research shows that BARJ-based programming is associated with high satisfaction with the juvenile justice system and low recidivism rates.

This guide is intended to further the knowledge, understanding, and practice of balanced and restorative justice. Agencies are encouraged to move toward a restorative juvenile justice system by using the philosophy of BARJ and the practices and programs described in this guide. The BARJ-based strategies implemented should be geared toward the needs of the community and its individual victims, offenders, and citizens.

Notes

¹ 705 ILCS 405/5-101

² This philosophy is based on practices used in indigenous cultures and religious groups for centuries.

³ The concept and term *balanced and restorative justice* was developed by the Balanced and Restorative Justice Project, funded by the Office of Juvenile Justice and Delinquency Prevention. The project sought to make the concepts of restorative justice applicable to our modern justice system and its professionals.

⁴ Pranis, Kay, *Guide for Implementing the Balanced and Restorative Justice Model*, Washington, DC: Office of Juvenile Justice and Delinquency Prevention, NCJ 167887.

⁵ Council of Juvenile Correctional Administrators “Position Paper on Achieving a Balanced Approach to Justice for Youths.” Retrieved from Council of Juvenile Correctional Administrators Website, on the World Wide Web: <http://www.cjca.net/documents/Balanced%20Approach.pdf>.

⁶ Retrieved December 3, 2004 from American Probation and Parole Association Website, on the World Wide Web: http://www.appa-net.org/about%20appa/communityjustice_1.htm.

⁷ Griffin, Patrick, Linda Szymanski, and Melanie King, *National Overviews, State Juvenile Justice Profiles*, National Center for Juvenile Justice Online (2005).

⁸ The purpose and policy statement can be found in the Illinois Compiled Statutes, 705 ILCS 405/5-101.

⁹ Native Counseling Services of Alberta, “Cost Benefit Analysis of Hollow Water’s Community Holistic Circle Healing Process” Ottawa, Ontario: Solicitor General of Canada, Aboriginal Corrections Policy Unit, (2001).

¹⁰ Latimer, Jeff, Craig Dowden, and Danielle Muise, “The Effectiveness of Restorative Practices: A Meta-Analysis,” Research and Statistics Division Methodological Series. Ottawa, CA, Department of Justice Canada, 2001.; McGarrell, Edmund, F., Kathleen Olivares, Kay Crawford, and Natalie Kroovand, “Returning Justice to the Community: The Indianapolis Juvenile Restorative Justice Experiment” Indianapolis: IN: Hudson Institute Crime Control Policy Center, 2001.; Nugent, William R., Mark S. Umbreit, Lizbeth Wiinamaki, and Jeff Paddock “Participation in Victim Offender Mediation and Severity of Subsequent Delinquent Behavior: Successful Replications?” *Journal of Research in Social Work Practice* (2004) 14.

¹¹ McGarrell, Edmund, F., Kathleen Olivares, Kay Crawford, and Natalie Kroovand, “Returning Justice to the Community: The Indianapolis Juvenile Restorative Justice Experiment” Indianapolis: IN: Hudson Institute Crime Control Policy Center, 2001.; Latimer, Jeff, Craig Dowden, and Danielle Muise, “The Effectiveness of Restorative Practices: A Meta-Analysis,” Research and Statistics Division Methodological Series. Ottawa, CA, Department of Justice Canada, 2001.

¹² Umbreit, Mark S., “Restorative Justice Through Victim-Offender Mediation: A Multi-Site Assessment,” *Western Criminology Review* 1(1) (1998).

¹³ Roberts, Tim, “Evaluation of the Victim Offender Mediation Project, Langley, BC: Final Report,” Victoria, BC: Focus Consultants (March 1995).

¹⁴ Umbreit, Mark S., “Restorative Justice Through Victim-Offender Mediation: A Multi-Site Assessment,” *Western Criminology Review* 1(1) (1998).

¹⁵ Ibid.

¹⁶ Retrieved December 3, 2004 from American Probation and Parole Association Website, on the World Wide Web: http://www.appa-net.org/about%20appa/communityjustice_1.htm.

¹⁷ Braithwaite, John, *Crime Shame and Reintegration*, New York: Cambridge University Press, 1989: 8.

¹⁸ Maloney, Dennis and Holcomb Deevy, “In Pursuit of Community Justice: Deschutes County, Oregon,” *Youth and Society* 33(2) (2001): 312.

¹⁹ Ibid, 311.

²⁰ Klein, Andrew “Community Probation: Acknowledging Probation’s Multiple Clients” *Community justice: Striving for safe, secure, and just communities*. Washington, DC: National Institute of Corrections, U. S. Department of Justice. (1996):28.

²¹ Administrative Office of the Illinois, “Annual Report of the Illinois Courts” 2003.

²² Maloney and Deevy, “In Pursuit of Community Justice: Deschutes County, Oregon”: 307.

²³ Ibid, 307.

²⁴ Klein, “Community Probation: Acknowledging Probation’s Multiple Clients” 4.

²⁵ Zehr, Howard, *Changing Lenses: A New Focus for Crime and Justice*, Scottsdale, PA: Herald Press, 1990: 193.

²⁶ Ibid, 194.

²⁷ Dooley, Michael, “Classification and Restorative Justice: Is There a Relationship” *Topics in Community Corrections* (1999): 38-42.

²⁸ Ibid, 38.

²⁹ Ibid, 42.

³⁰ Community service and restitution require some supervision by either a community service agency or the police department. Another option is for community volunteers to be trained to monitor youth offenders working in the community.

³¹ Karp, David R. and Kevin M. Drakulich, “Minor Crime in a Quaint Setting: Practices, Outcomes, and Limits of Vermont Reparative Probation Boards” *Criminology and Public Policy*, 3(4) (2004): 656.

³² Family group conferences first emerged in New Zealand in 1989 and are based on the country’s concept of Maori justice.

³³ Umbreit, Mark and Claudia Fercello, “Practicing Restorative Justice: Family Group Conferencing and Juvenile Crime in the Suburban Metro Area,” *CURA Reporter* (June 2000): 17-18.

³⁴ Hines, David, “The Woodbury Police Department Restorative Justice Program Recidivism Study,” Interfaith Ministries (2002). *The study found recidivism rates for the family group conferencing program at 33 percent compared to 72 percent of youth processed. In addition, conference participants who recidivated did so after a longer period of time and committed less serious offenses.*

³⁵ Mirsky, Laura, “A Summary of ‘A Survey of Assessment Research on Mediation and Restorative Justice’ by Paul McCold,” *International Institute for Restorative Practices E-Forum* (June, 2004): 2.

³⁶ “Teen court” is mentioned in the Illinois Compiled Statutes, 705 ILCS 405/5-330.

³⁷ 705 ILCS 405/5-310 (1)

³⁸ 705 ILCS 405/5-310 (3) (a)

³⁹ Alarcon, Francisco, J. “Juvenile Corrections: Why Would Anyone Want to Work in This Business,” *Corrections Today* 66 (February 2004): 8.

Appendix

The inclusion of resources in this appendix does not indicate an endorsement of any agency, program, service, or individual. This appendix is intended to provide a broad range of resources for information on balanced and restorative justice.

Illinois Resources

Local Resources

Bloom Township Youth and Family Services
Mediation and Family Group Conferencing Programs
425 S. Halsted St.
Chicago Heights, IL 60411-1212
Phone: 708-754-9400

Champaign County Victim Offender
Reconciliation Program
Contact: Mark Krug
Court Diversion Services
Champaign County Regional Planning
Commission
1776 E. Washington St.
Urbana, IL 61802-4578
Phone: 217-328-3313
E-mail: mkrug@ccrpc.org

Community Panels for Youth
Contact: Robert Spicer
Community Justice for Youth Institute
10 W. 35th St., Suite 9C 4-1
Chicago, IL 60616-3717
Phone: 773-842-4987
E-mail: rspicercpy@yahoo.com

Cook County Juvenile Probation Department
Contact: Chuck Michalek, Deputy Chief
Probation Officer
1100 S. Hamilton Ave.
Chicago, IL 60612-4207
Phone: 312-433-6639
E-mail: michalekchas@aol.com
Website: www.cookcountycourt.org/services/programs/juvenile/balanced.html

Ford County Family Group Conferencing
Program
Ford County Probation and Court Services
200 W. State St.
Paxton, IL 60957-1179
Phone: 217-379-2221
E-mail: probation@fordcountycourthouse.com

Macon County Teen Court
Contact: David Kidd, Coordinator
253 E. Wood St., 4th floor
Decatur, IL 62523-1483
Phone: 217-424-1400
E-mail: dkidd723@hotmail.com

Neighborhood Restorative Justice Institute, Inc.
Contact: Elizabeth Vastine
155 N. Michigan Ave., Suite 744
Chicago, IL 60601
Phone : 312-616-4465
E-mail: lizjim.enteract@rcn.com

Victim-Offender Conference Program
Contact : Daniel Smith
Department of Probation and Court Services
Eighteenth Judicial Circuit
503 N. County Farm Road
Wheaton, IL 60187-3942
Phone : 630-407-8350
E-mail: dan.smith@dupageco.org

Statewide resources

Illinois BARJ Initiative
Contact: Sally Wolf
Ford County Probation and Court Services
200 W. State St.
Paxton, IL 60957-1179
Phone: 217-379-2221
E-mail: probation@fordcountycourthouse.com

Illinois Youth Court Association
Contact: Amy Zimmerman, Children's Policy
Advisor
Office of the Illinois Attorney General Lisa
Madigan

100 W. Randolph St.
Chicago, IL 60601-3218
Phone: 312-814-2823
E-mail: azimmerman@atg.state.il.us
Website: www.illinoisattorneygeneral.gov

Other resources

Deschutes County Juvenile Community Justice
Department
63360 Britta St., Bldg. 1
Bend, OR 97701-9466
E-mail: jvusucs@co.deschutes.or.us
Phone: 541-388-6671
Website: www.co.deschutes.or.us

Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, MN 55108-5219
Phone: 651-643-2161
Website: [www.doc.state.mn.us/aboutdoc/
restorativejustice/default.htm](http://www.doc.state.mn.us/aboutdoc/restorativejustice/default.htm)

Vermont Department of Corrections Reparative
Probation
103 S. Main St.
Waterbury, VT 05671-1001
Phone: 802-241-2266
E-mail: stevl@doc.state.vt.us
Website: www.public.doc.state.vt.us

The Balanced and Restorative Justice Project
Florida Atlantic University
111 E. Las Olas Blvd.
Askew Tower, Suite 613
Ft. Lauderdale FL 33304
Phone: 954-762-5668
E-mail: odixon@fau.edu
Website: www.barjproject.org

Center for Restorative Justice and Peacemaking
School of Social Work
University of Minnesota
1404 Gortner Ave., 105 Peters Hall
St. Paul, MN 55108-6160
Phone: 612-624-4923
E-mail: rip@che.umn.edu
Website: www.2ssw.che.umn.edu/rjp

International Institute for Restorative Practices
P.O. Box 229
Bethlehem, PA 18016
Phone: 610-807-9221
E-mail: info@restorativepractices.org
Website: www.iirp.org

National Youth Court Center
c/o American Probation and Parole Association
P.O. Box 11910
Lexington, KY 40578-1910
Phone: 859-244-8193
E-mail: nycc@csg.org
Website: www.youthcourt.net
Youth website: www.ycyouth.net

Restorative Justice Online
Prison Fellowship International Centre for
Justice and Reconciliation
P.O. Box 17434
Washington, DC 20041
Phone: 703-481-0000
E-mail: rjonline@pfi.org
Website: www.restorativejustice.org

Illinois Criminal Justice Information Authority

120 S. Riverside Plaza, Suite 1016
Chicago, Illinois 60606-3997
Phone: (312) 793-8550
TDD: (312) 793-4170
Fax: (312) 793-8422
www.icjia.state.il.us

Rod R. Blagojevich, Governor
Sheldon Sorosky, Chairman
Lori G. Levin, Executive Director